

UNITED STATES DISTRICT COURT

FILED
CLERK'S OFFICE

DISTRICT OF MASSACHUSETTS

2001 JAN 30 P 12:11

SANDY J. BATTISTA, U.S. DISTRICT COURT
Plaintiff, DISTRICT OF MASS.

vs.

ROBERT MURPHY, Superintendent,
KATHLEEN M. DENNEHY, Commissioner, and
COMMONWEALTH OF MASSACHUSETTS,

Defendant's.

CIVIL ACTION
NO.

MOTION TO WAIVE FILING FEES AND COSTS AND TO
BE ALLOWED TO PROCEED IN FORMA PAUPERIS

Plaintiff, Sandy J. Battista, acting pro-se in the above entitled matter, respectfully requests this Honorable Court to waive any and all filing fees and costs incurred in this action, and allow the plaintiff to proceed in forma pauperis. As grounds thereto, plaintiff states the following:

- 1) That plaintiff has been incarcerated in the Department of Correction from 2/28/83 through date.
- 2) That on 5/29/01, plaintiff was discharged from her sentences of incarceration.
- 3) That on 5/15/03, plaintiff was adjudicated by the Worcester Superior Court as being a "SEXually Dangerous Person" and civilly committed to the Mass. Treatment Center. See Commonwealth vs. Sandy J. Battista, WORCV01-1108-C. (On file).
- 4) That persons civilly committed to the Mass. Treatment Center are not "prisoners" under the Prison Litigation Reform Act. See generally, King vs. Greenblatt, 53 F.Supp.2d 117, 137-

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38 (D.Mass. 1999); Troville vs. Venz, 303 F.3d 1256 (11th Cir. 2002); West vs. Macht, 986 F.Supp. 1141 (W.D.Wis. 1997); Yoder vs. Patla, 234 F.3d 1275 (7th Cir. 2000); Page vs. Torrey, 201 F.3d 1136, 1139-40 (9th Cir. 2000).

5) Having been in the custody of the Department of Correction for the last 20+ years, plaintiff has no real property, real estate, stocks, bonds, notes, automobiles, etc.. Except a small inheritance from her fathers passing last June of 2001. (Inheritance is exempt from taxes and is not considered income under the Social Security Administration Act).

6) Plaintiff is not currently employed, nor does she expect to be employed within the next six months. Therefore, cannot financially afford the costs of this action.

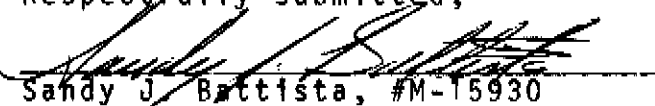
7) This Court, along with the First Circuit Court of Appeals has recently determined this plaintiff to be indigent for a waiver of fees and costs. See attached notices.

8) Plaintiff's financial status has not changed since the court's in the attached notices has declared her to be indigent.

WHEREFORE, it is prayed that this Court ALLOW this motion, waive the filing fees and costs in this action, and GRANT the plaintiff informis pauperis status.

Dated: 2/1/04.

Respectfully submitted,


Sandy J. Battista, #M-15930
Plaintiff/Pro-se
Mass. Treatment Center
30 Administration Rd.
Bridgewater, Mass. 02324

United States District Court

District of Massachusetts

Notice of Electronic Filing

The following transaction was received from Castles, Martin entered on 1/14/2004 at 4:30 PM EST and filed on 1/14/2004

Case Name: Battista v. Conte, et al

Case Number: 4:02-cv-40181

Filer:

WARNING: CASE CLOSED on 07/24/2003

Document Number:

Docket Text:

Judge Nathaniel M. Gorton : Electronic ORDER entered granting [20] Motion for Leave to Appeal in forma pauperis. (cc/cl) (Castles, Martin)

The following document(s) are associated with this transaction:

4:02-cv-40181 Notice will be electronically mailed to:

4:02-cv-40181 Notice will not be electronically mailed to:

Sandy J. Battista
Massachusetts Treatment Center
30 Administration Road
Bridgewater, MA 02324-3230

Annette C. Benedetto
Department of Attorney General
McCormack Building
One Ashburton Place
Boston, MA 02208

United States Court of Appeals For the First Circuit

No. 03-2220

SANDY J. BATTISTA, F/K/A DAVID MEGARRY,

Plaintiff, Appellant,

v.

JOHN J. CONTE, ET AL.,

Defendants, Appellees.

ORDER OF COURT

Entered: December 19, 2003

Since appellant, as a civilly committed patient at the Massachusetts Treatment Center, is not a prisoner under the terms of the Prison Reform Litigation Act, see Perkins v. Hedricks, 340 F.3d 582, 583 (8th Cir. 2003); Troville v. Venz, 303 F.3d 1256, 1559-60 (11th Cir. 2002); Yoder v. Patla, 234 F.3d 1275 (7th Cir. 2000); Page v. Torrey, 201 F.3d 1136, 1139-40 (9th Cir. 2000), the order of this court, dated September 22, 2003, denying appellant's request to be afforded in forma pauperis status is vacated.

Appellant's motion to be allowed to file his appeal in forma pauperis is denied, without prejudice to his seeking such status in the district court. See Fed. R. App. P. 24(a)(1).

By the Court:

Richard Cushing Donovan, Clerk.

cc: Sandy J. Battista
Annette C. Benedetto, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SANDY J. BATTISTA,

Plaintiff,

Civil Action

v.

No. 03-11161-NG

FORENSIC HEALTH SERVICES INC.,

Defendant.

ORDER ON MOTION TO WAIVE FILING FEES AND COSTS

Having considered the plaintiff's Motion to Waive Filing Fees and Costs under 28 U.S.C. § 1915;

- ☒ In accordance with Fed. R. Civ. P. 5(e), the clerk assigned this action
Civil Action No. 03-11161-NG.

It is ORDERED that:

- ☒ The motion to waive filing fees and costs is GRANTED.
- ☒ It is FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff with all costs of service to be advanced by the United States.
- ☐ It is FURTHER ORDERED that the complaint be dismissed pursuant to 28 U.S.C. § 1915(e) without further notice after thirty-five (35) days from the date of this Order, unless before that time plaintiff shows good cause, in writing, why this case should not be dismissed for the reasons stated in the accompanying memorandum.
- ☐ It is FURTHER ORDERED that the application is DENIED for the reasons stated in the accompanying memorandum.

12/23/03

DATE

/s Nancy Gertner

UNITED STATES DISTRICT JUDGE